

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this document (including any paper referred to as being attached or enclosed) is being sent to the U.S. Patent and Trademark Office via facsimile transmission to (703) 308-4556 on the date indicated below, with a coversheet addressed to Assistant Commissioner for Patents, U.S. Patent and Trademark Office, Washington, D.C., 20231.

Date:

April 13, 2000

By:

Willem F. Gadiano, Registration No. 37,136

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Art Unit: 1614

J. Peter KLEIN et al.

Examiner: Criares, T

Serial No.: 09/288,556

Docket No.: 44033-080

Filed: April 9, 1999

For: THERAPEUTIC COMPOUNDS FOR INHIBITING INTERLEUKIN-12 SIGNALING
AND METHODS FOR USING SAMERESPONSE TO ELECTION OF SPECIES REQUIREMENTHonorable Assistant Commissioner for Patents
Washington, D. C. 20231

Sir:

In response to the Office Action (Election of Species Requirement), mailed March 13, 2000, Applicants hereby elect the compounds of Formula I (claim 1) wherein "x" and "y" are N and "z" is C, for initial prosecution on the merits. Applicants make this election **with traverse**.

An Election of Species Requirement is proper only when there is a serious burden on the Patent Office to examine all of the claims in a single patent application. MPEP § 803. Applicants respectfully submit that the subject matter of the pending claims is sufficiently related and that a thorough search for any one species would appear to overlap with a search for the remaining species such that a search and examination of the entire application can be performed without a serious burden. To avoid unnecessary delay and expense to Applicants and duplicative examination by the

Application Serial No. 09/288,556

Patent Office, Applicants respectfully request that the above policy be applied in the present application. Therefore, Applicants respectfully request reconsideration and withdrawal of the Election of Species Requirement.

As acknowledged by the Examiner, claims 1 and 11 are generic to a plurality of disclosed species. If the Examiner ultimately allows claims reciting the elected species, then Applicants respectfully submit that claims reciting all of the disclosed species should be found allowable, as well.

Early consideration and prompt allowance of the pending claims are respectfully requested. If anything could be done to place this application in condition for allowance, Applicants respectfully request that the Examiner contact the undersigned representative at the telephone number listed below.

Please grant any extension of time necessary for entry of this communication. Please charge any deficient fees, or credit any overpayment of fees, to Deposit Account No. 50-0417.

Respectfully submitted,

MCDERMOTT, WILL & EMERY

Date: April 13, 2000

By: Willem F. Gadiano
Willem F. Gadiano, Esq.
Registration No. 37,136

600 13th Street, N.W.
Washington, D.C. 20006
(202) 756-8373 (direct)